

## **ADMINISTRATIVE PANEL DECISION**

Accenture Global Services Limited v. krishna uppatala, cognizant  
Case No. D2022-3222

### **1. The Parties**

The Complainant is Accenture Global Services Limited, Ireland, represented by McDermott Will & Emery LLP, United States of America (“U.S.”).

The Respondent is krishna uppatala, cognizant, India.

### **2. The Domain Name and Registrar**

The disputed domain name <accenturetechsolutions.com> is registered with Realtime Register B.V. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2022. On August 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 1, 2022, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 2, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 3, 2022.

The Center verified that the Complaint, together with the amended Complaint, satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 3, 2022.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on October 17, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a professional services company, specializing in information technology services and consulting.

The Complaint is based, amongst others, on the following trademarks consisting of or containing the word ACCENTURE, applied for before the date of registration of the disputed domain name:

- U.S. trademark registration number 3,091,811, for the trademark ACCENTURE (word mark), registered on May 16, 2006 for goods and services in classes 9, 16, 35, 36, 37, 41 and 42;
- U.S. trademark registration number 3,340,780 for the trademark ACCENTURE (word and figurative mark), registered on November 20, 2007 for goods in classes 6, 8, 9, 14, 16, 18, 20, 21, 24 and 28.

The disputed domain name was registered by the Respondent on July 23, 2022. It results from the Complainant's documented allegations that the website available under the disputed domain name resolved to a page with commercial offers such as hosting services ("buy website hosting - Save 90%").

#### **5. Parties' Contentions**

##### **A. Complainant**

Firstly, the Complainant points out that the disputed domain name is nearly identical and confusingly similar to the registered trademark ACCENTURE in which the Complainant has rights. In fact, the disputed domain name contains the trademark ACCENTURE identically followed by the descriptive words "tech" and "solutions" which reference one of the primary fields in which the Complainant offers its consulting and professional services.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Respondent is neither affiliated with, nor has it been licensed or permitted to use the Complainant's ACCENTURE marks or any domain names incorporating the ACCENTURE Marks. Furthermore, the Respondent is not commonly known by the disputed domain name, nor was it known as such prior to the date on which the Respondent registered said the disputed domain name to trade on the value of the Complainant's famous trademark. In addition, the disputed domain name resolves to a page, which appears to be hosted by the Registrar, and states, among other promotional content. In summary, the Respondent is not making a legitimate, noncommercial or fair use of the disputed domain name, and it appears that the Respondent has chosen the disputed domain name to trade off the reputation and goodwill associated with the Complainant's ACCENTURE marks, to cause confusion amongst Internet users and the Complainant's customers, to benefit from misdirected Internet traffic, and to prevent the Complainant from owning the disputed domain name.

Thirdly, the Complainant contends that the Respondent registered and uses the disputed domain name in bad faith. The Complainant submits that the Respondent, at the time of registration of the disputed domain name and given the Complainant's worldwide reputation and the ubiquitous presence of the ACCENTURE marks on the Internet, was or should have been aware of the ACCENTURE marks. Furthermore, the Complainant is of the opinion that the Respondent has held the disputed domain name for over one month, and has not used it for any legitimate purpose. It has long been held in UDRP decisions that the passive or inactive holding of a domain name that incorporates a registered trademark, without a legitimate purpose, may indicate that the disputed domain name is being used in bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the registrant of record for the disputed domain name is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **A. Identical or Confusingly Similar**

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first of all establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

The Complainant has provided evidence that it is the registered owner of various trademark registrations consisting of the verbal element ACCENTURE, amongst others U.S. trademark registration numbers 3,091,811, for the trademark ACCENTURE (word mark) and 3,340,780 for the trademark ACCENTURE (word and figurative mark).

The Panel notes that the Complainant's registered trademark ACCENTURE is fully included in the disputed domain name. The Panel further notes that the terms “tech” and “solutions”, which the Panel considers descriptive of the Complainant's activities, are added at the end of the trademark. It is the view of this Panel that the combination of the trademark ACCENTURE with the terms “tech” and “solutions” placed after the mark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks. In fact, in accordance with the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element. The Panel shares this view.

Finally, adding the TLD “.com”, which is a technical requirement, is generally disregarded for the purpose of the analysis of confusing similarity.

Hence, this Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks pursuant to the Policy, paragraph 4(a)(i). Accordingly, paragraph 4(a)(i) of the Policy is satisfied.

## **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name:

According to the Complaint, which has remained unchallenged, the Complainant has not authorized the Respondent's use of the trademarks ACCENTURE, e.g., by registering the disputed domain name comprising said trademark entirely.

Furthermore, the Panel notes that there is no evidence in the records showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

In addition, it results from the Complainant's undisputed allegations that the disputed domain name resolves to a website with commercial offers such as hosting services ("buy website hosting - Save 90%"). In the Panel's view, such commercial use cannot be considered a legitimate, noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue pursuant to paragraph 4(c)(iii) of the Policy.

Moreover, such use cannot be qualified a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. In fact, this Panel considers such use as being primarily commercial and capitalizing on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users (cf. section 2.5.3 of the [WIPO Overview 3.0](#)).

Finally, the Panel finds that the disputed domain name is inherently misleading insofar as affiliation is concerned (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Previous UDRP panels have found that once the panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

One of those circumstances are those specified in paragraph 4(b)(iv), *i.e.*, where the domain name is used to intentionally attempt to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

In the Panel's view, the Respondent has intentionally registered the disputed domain name which identically contains the Complainant's trademark ACCENTURE plus the descriptive terms "tech" and "solutions" which

are applicable to the Complainant's activity. By the time the disputed domain name was registered, it is therefore unlikely that the Respondent did not have knowledge of the Complainant and its mark ACCENTURE and its business activity.

The Complainant also provided evidence that the Respondent is using the disputed domain name to lead to a website with commercial content. This is indicative of bad faith, even if the webpage were configured automatically by the registrar or any other party. Indeed, particularly with respect to "automatically" generated commercial pages or links, previous UDRP panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links *ipso facto* vest the respondent with rights or legitimate interests). Neither the fact that such pages/links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith (see comparative reference to section 3.5 of WIPO Overview 3.0).

These facts confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to this website with commercial content, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Moreover, the Panel considers the following further circumstances surrounding the disputed domain name's registration and use as indications confirming the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the Respondent's failure to provide any response to the Complaint with conceivable explanation of its behavior;
- (ii) the undisputed worldwide reputation of the ACCENTURE-trademark for decades;
- (iii) the fact that the ACCENTURE trademarks existed for decades before the disputed domain name was registered; and
- (iv) the composition of the disputed domain name, which the Panel finds is inherently misleading.

The Complainant is of the view that the Respondent has not used the disputed domain name for any legitimate purpose and that the passive or inactive holding of a domain name that incorporates a registered trademark, without a legitimate purpose, may indicate that the disputed domain name is being used in bad faith. If one considers the Respondent's use of the disputed domain name as inactive use, noting: (i) the degree of distinctiveness and reputation of the Complainant's mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the inherently misleading domain name may be put, the Panel finds that such passive holding of the disputed domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

As a result, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy. The Complainant is therefore deemed to also have satisfied the third element, paragraph 4(a)(iii) of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <accenturetechsolutions.com> be transferred to the Complainant.

*/Tobias Malte Müller*

**Tobias Malte Müller**

Sole Panelist

Date: November 7, 2022